

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Telscape Communications, Inc. (U-6589-C),

Complainant,

vs.

Pacific Bell Telephone Company (U-1001-C),

Defendant.

Case 02-11-011  
(Filed November 5, 2002)

**ORDER EXTENDING STATUTORY DEADLINE**

**Summary**

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline. In this proceeding, the 12-month deadline for resolving this matter is November 5, 2003. This decision extends the deadline at the request of all parties, in order to allow adequate time for discovery and preparation for the evidentiary hearings (EH) in this matter, commensurate with the complexity and importance of the issues in the case.

**Procedural Background**

Telscape Communications, Inc. (Telscape) filed this complaint on November 5, 2002, against Pacific Bell Telephone Company (SBC California),<sup>1</sup> claiming that SBC California engages in a variety of anticompetitive practices. A prehearing conference (PHC) was held on January 7, 2003. The Scoping Memo and Ruling of Assigned Commissioner, issued January 15, 2003, included a schedule for this proceeding agreed to by Telscape and SBC California. AT&T Communications of California, Inc. (AT&T) and WorldCom, Inc. (WorldCom) subsequently filed motions to intervene, which were granted on March 7, 2003. A second PHC was held by telephone on March 18, 2003, attended by Telscape, SBC California, AT&T, and WorldCom.

During the second PHC, the four parties presented a proposed revised schedule for this proceeding. The proposed new schedule would extend the time for concluding this proceeding beyond the 12-month timeframe in § 1701.2(d). Following the PHC, on March 23, 2003, the parties filed a Joint Motion for Order Expanding Time for Resolution of Case Beyond Statutory One-Year Deadline (Joint Motion).

**Discussion**

In their Joint Motion, the parties note that both Telscape and SBC California, after promptly commencing discovery, determined that they could not prepare adequately for the EH on the original schedule, given the volume of discovery to date, the need for additional discovery, and the

---

<sup>1</sup> Subsequent to the filing of the complaint, Pacific Bell Telephone Company changed its name to SBC California. The new name will be used in the discussion, though the caption remains unchanged.

complexity of the issues. After the intervention of AT&T and WorldCom, all four parties conferred to develop a proposed revised schedule. The proposed schedule would allow for adequate preparation and briefing time, with submission of the case within the 12-month period. The time needed for the preparation of the Presiding Officer's Decision (POD) and for the Commission to consider any appeals or requests for review of the POD will extend the case beyond the 12-month period, to a projected conclusion by February 2004.

Because the schedule revision has been agreed to by all the parties, we expect them to adhere to the revised schedule. We also expect the Administrative Law Judge to ensure that this proceeding is concluded within the time period proposed by the parties.

Accordingly, we find that the 12-month deadline for completing this case pursuant to § 1701.2(d) cannot be met, and that an extension in the schedule will be required to allow adequate time for preparation and presentation of the parties' cases, as well as to consider potential appeals or requests for review.

### **Public Review and Comment**

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable Pub. Util. Code § 1701.2(d) statutory deadline for public review and comment is being waived.

### **Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Anne E. Simon is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. This proceeding was initiated on November 5, 2002.

2. Based upon the 12-month statutory deadline, this proceeding should be resolved on or before November 5, 2003.

3. Because of the significance and complexity of the issues in this proceeding, the current schedule, which would conclude the case within the 12-month timeframe, allows insufficient time for the parties to conclude discovery and prepare for the evidentiary hearing (EH).

4. All the active parties in this proceeding have jointly requested that the schedule be revised to allow adequate time for discovery and preparation for the EH, as well as for briefing by the parties, preparation of the Presiding Officer's Decision (POD), and for Commission consideration of any appeal or request for review of the POD.

#### **Conclusion of Law**

The 12-month statutory deadline imposed by Pub. Util. Code § 1701.2(d) should be extended, effective immediately.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The 12-month statutory deadline in this proceeding is extended.
2. The Administrative Law Judge shall take all reasonable steps to ensure that this proceeding is concluded within the time frame of the revised schedule.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.